

PROCEEDINGS OF THE BOARD OF HEALTH MEETING

Tuesday, November 13, 2012

5:00 PM

Present: Don Murray, Joe VanDeurzen, Audrey Murphy, J. Tibbetts,
MD, Harold Pfothhauer

Excused: Patricia Bacelis-Leon

Staff Present: Judy Friederichs, John Paul

Guests Present: Ryan Krumrie, 4432 Indian Trail; Steve Deslauriers, Brown
County Citizens for Responsible Wind Energy (BCCRWE);
Barb VandenBoogart (BCCRWE); Tony Loretz, Sanimax;
Scott Stein, Leonard & Finco

1. CALL TO ORDER AND INTRODUCTIONS

Staff and guests introduced themselves.

2. APPROVAL / MODIFICATION OF THE AGENDA

To approve the revised agenda: Van Deurzen / Tibbetts

MOTION CARRIED

3. APPROVAL OF MINUTES OF September 11, 2012

To receive and place on file: Van Deurzen / Tibbetts

MOTION CARRIED

4. REQUEST FROM HUMAN SERVICES COMMITTEE REQUESTING
REVIEW OF DIFFERENT OPTIONS, TOOLS AND AVENUES OF
ACTION (REGARDING ODOR ENFORCEMENT)

Audrey stated that the Human Services Committee did not agree with changes to the ordinance recommended by the Board of Health. The committee asked that a report be presented at their next meeting regarding what has been done to address the problem so far and what strategies might be tried in the future.

John Paul said that he has surveyed other local health departments regarding nuisance ordinances in their jurisdictions. Fines for ordinance violations are between \$5 and \$500. As far as John can tell, Brown County is the only jurisdiction that has progressive fines for nuisance ordinance violations. Only one of the ten departments that he surveyed has a specific odor ordinance. Craig Kratcha found a zoning ordinance that referenced odor, but John did not feel that zoning has anything to do with the current issues being discussed in Brown County.

Dr. Tibbetts confirmed with John that if the number of verifiable complaints in the ordinance were reduced from 3 to 2, there would have been 7 citations issued. As it stands, there were no citations in 2012.

Don Murray asked John if staff communicate with the company between the second and third complaint. John said that staff communicate with the company following every complaint.

Judy said that Corporation Counsel Ruenzel stated that the reduction in verifiable complaints needed for a citation may not be strong enough to hold up to a court challenge. Joe Van Deurzen asked if the Brown County ordinance is the strongest in the state. John said that, from a fine standpoint, the Brown County ordinance is the strongest – but the language in most of the ordinances he has reviewed is very similar. Joe asked if John had reviewed any ordinances from major metropolitan areas. John said that he has read Milwaukee's ordinance.

Audrey said that she feels that the county already has an ordinance in place that, along with enforcement by Health Department staff, addresses this issue. Joe further commented that there isn't a machine that measures the level of odor, which makes any ordinance harder to enforce. He commented that companies have spent a considerable amount of money to address the odor problem and asked John if they are now using the best technology available or whether there are further options to try.

John said that his staff has developed relationships with the management of all of the plants that the department has received complaints on. They have made a considerable effort and have been cooperative when dealing with BCHD staff.

Audrey asked if Judy had any thoughts on the response requested by the Human Services Committee. Judy said that she had talked to Supervisor Evans and said that it was hard to get her hands around the request. He told her that he recommended just appearing before the committee and giving an overview of what is being done now and what has been done in the past.

MOTION: To stand by the existing ordinance. Van Deurzen / Tibbetts

MOTION CARRIED

MOTION: To depart from the regular order of business.

Tibbetts / Van Deurzen

MOTION CARRIED

Joe asked Tony Loretz what Sanimax has spent in the last two years on odor control. Tony said that they have spent \$1.8 million on odor issues, which was included in \$10 million in expenses to improve equipment reliability. They plan to make every effort this winter to study the issue and find ways to reduce the problem next summer. Audrey asked if Sanimax employs scrubbers and whether more scrubbers might be added in the future. Tony said that they do have scrubbers and that the capacity of those scrubbers is sufficient to meet future needs. In the company's budgeting, odor is a top priority for 2013.

Judy asked Tony about measurements that a consultant is taking for them. Tony said that they have been able to make several adjustments to their process as a result of those measurements. They are going to continue testing throughout the winter months and adjust as needed.

MOTION: To return to the regular order of business.

Van Deurzen / Tibbetts

MOTION CARRIED

5. ODOR COMPLAINTS

John reported two complaints on different days in the last two months on Sanimax. One was a verifiable complaint from Green Bay Converting; the other was a call from Sanimax indicating an equipment problem. John verified that complaint himself.

6. REVISIT ACTION AT SEPTEMBER MEETING RELATING TO WIND TURBINE ZONING AND HEALTH ISSUE INFORMATION

Audrey reminded board members of the motion made at the last meeting to address the zoning implications of wind turbine zoning and to provide information to municipalities regarding possible health effects of wind turbines.

Audrey checked into the zoning issue and has concluded that local municipalities cannot use zoning to prevent wind turbines in their

community. Regarding the information for municipalities regarding health effects, Dr. Tibbetts stated that the BCCWE plans to provide information to neighboring municipalities.

Joe stated that he still questions whether municipalities would be able to control construction through zoning. He asked how the issue of karst features prevented further construction a few years ago. Audrey stated that the company ultimately withdrew their application.

6a. REQUEST FOR STATE FUNDING FOR LOW-FREQUENCY NOISE MEASUREMENT ON BEHALF OF INDIVIDUALS IN THE SHIRLEY WIND PROJECT WHO ARE EXPERIENCING ADVERSE HEALTH EFFECTS

MOTION: To depart from the regular order of business so that the public can be heard.

Tibbetts / Van Deurzen

MOTION CARRIED

Steve Deslauriers said that Act 40 did take away local control of construction of wind turbines but it also requires that the state protect the health of citizens. He feels that the PSC has not met this requirement and is currently moving quickly to approve construction of a new turbine project. He stated that the PSC acknowledges that low-frequency noise is a concern but are not addressing the problem for people who are already located near turbines. The BCCRWE is not saying that low-frequency noise is the cause of the health problems people are experiencing, but there is a definite correlation between the noise and the symptoms. They are now requesting that the Brown County Board of Health be the objective entity that facilitates the low-frequency noise study that is being planned. He presented a proposed ordinance to that effect to the board and noted that the PSC should be asked to fully fund the study since the local community does not have the means.

Barbara VandenBoogart said that an expert from Clean Energy (the group that is in support of developing the new project) said that a project with the same conditions as those in Glenmore could produce the same health effects for the local population as have been reported in Glenmore.

Joe asked if the Board of Health would have the expertise to oversee such a study. Judy said that she is not sure that the board would have the authority to choose a company outside of the approved purchasing process, which is geared toward accepting the lowest bid. Barbara said that there are a limited number of experts available to do this testing and at least one of them has a strong connection to wind companies and may not be un-biased. Joe agreed that a government entity is required to

accept the lowest bid in most cases – so there may be another entity that would be more suited to this issue.

Steve suggested that there may be another way for the Board of Health to be involved in the process without overseeing it. Barbara asked that the Board send a letter to the PSC and include affidavits from those who have been affected by the Glenmore project. Steve said that this information would need to come from a government entity to be considered by the PSC.

Joe said that he supports a strongly-worded letter sent by registered mail with the affidavits.

Steve said that he is in support of this but is concerned that other communications from the board sent in the past have received no response. Barbara said that she would encourage that the letter include much of the body of the proposed resolution and should be sent to the Governor's office in addition to the PSC.

Joe asked if the issue of shadow-flicker should be included with this letter. Audrey, Dr. Tibbetts and Judy said that they think this issue is important but should be addressed separately at a later date.

Audrey asked who was asking the questions to the people whose affidavits were included in the packet sent to her by BCCRWE. Steve said that these were collected by attorneys when the PSC was deliberating over approval of the Highland Wind Project.

Audrey said that she wondered why the PSC was so concerned about approving this project since the state has met its renewable energy quota. Steve said that the state has met its quota, but it receives a large amount of shared revenue for the energy produced. He believes that the electricity will be sold to a neighboring state.

Don asked if Steve was aware of any communities that report success with wind projects. Steve said that projects in areas of lower population seem to have fewer problems. He said that projects like Shirley Wind affect so few people that they are considered collateral damage.

MOTION: To return to the regular order of business.

Van Deurzen / Pfothenhauer

MOTION CARRIED

6b. EXPLORE LOW-FREQUENCY NOISE ORDINANCE

Dr. Tibbetts said that this has been discussed in previous meetings. Because of the problems reported by Glenmore residence and possible future projects, it would behoove the board to act on creating an ordinance. If the ordinance is in effect, the board can require an impact study before a project is approved.

Joe asked if the existing nuisance ordinance can be revised to include low-frequency noise. Dr. Tibbetts said that this is what he was suggesting and that an expert such as Rick James be employed to help draft the ordinance. He further said that the ordinance should be for any low-frequency noise and not just noise that is produced by wind turbines. Audrey asked if the budget would allow for hiring a consultant. Judy said that she does not know what the cost would be but the budget is pretty tight. Audrey, Dr. Tibbetts and Joe said that the first step should be to find out if Mr. James is available and what his fee would be.

Don asked if an ordinance such as this would be affected by the same rules that a zoning ordinance would be, in that it could not supersede PSC rule 128. Dr. Tibbetts said that Calumet County has already done this and it appears that this is not covered by PSC 128.

Dr. Tibbetts said that there is a gentleman who just moved into a new house in Suamico near a cheese factory and had Wind Turbine Syndrome the first night. He was taken to the Ehrfurth residence and experienced the same symptoms within 20 minutes. This indicates that low-frequency noise is not just an issue of wind turbines. Steve said that, even if this ordinance would not be enforceable for wind turbines due to PSC 128, it would be a message to developers that local municipalities are attempting to protect the health of their residents. He also said that a lawsuit in court right now could result in PSC 128 being thrown out, in which case the low-frequency noise ordinance would immediately be in effect for turbines.

MOTION: To place this on the next meeting's agenda the exploration of a low-frequency noise ordinance along with a report from Dr. Tibbetts regarding the possibility of using Mr. James to help develop the ordinance and the cost.

Van Deurzen / Tibbetts

MOTION CARRIED

7. UPDATE ON STATUS OF 2013 BUDGET

Judy said that the budget was approved by both the Human Services committee and the full County Board with no changes. Dr. Tibbetts asked

if the vision and hearing screening program was still included. Judy said that it is. The County Executive signed the budget with one veto related to a car in the Sheriff's budget.

8. CORRESPONDENCE RECEIVED

Audrey said that the letter from Sandy Johnson included in the meeting packet was very well written.

Judy also mentioned the low-frequency noise study that was sent separately to board members.

9. DIRECTOR'S REPORT

Judy reported that Jean Vang is a new Public Health Nurse that started on November 12th. Jean replaces a nurse who left the department to work for Green Bay Public Schools.

The sanitarians are moving toward the HealthSpace program for electronic inspections. Staff will now be able to sort data more quickly and easily and generate reports required by the state.

A LEAN project was completed by Environmental and Clerical staff along with Information Services and three LEAN facilitators. This project looked at the process of licensing new establishments. At the end the group left with a list of assignments to complete within a specified series of time.

The city of De Pere is again exploring the possibility of consolidating their health department with Brown County's following the loss of their Health Officer and Sanitarian. They had requested that BCHD contract with them to provide a sanitarian for 20 hours a week. Judy informed them that Brown County does not have staff to spare for such an agreement.

Judy said that staff are working on a variety of contracts for things such as immunization billing to HMOs; regional trauma preparedness; local preparedness services (Kewaunee County); Childhood Lead Poisoning services (Marinette and Oconto Counties).

Brown County's Risk Management department is reviewing HIPAA compliance policies and procedures and has gathered a variety of information from the Health Department regarding records stored on paper and electronically.

Judy reported that she is back to work full-time after her medical leave.

Communicable Disease Report:

Staff are following up with close contacts to a case of active TB in Sheboygan. They are working with a consultant in Texas regarding recommended follow-up specifically for young children.

A multiple-drug-resistant case of TB that staff have been working with continues to struggle with side-effects of medications. This person has been on a particularly long course of treatment but staff are optimistic.

Two family members with Rifampin-resistant TB will complete their treatment in March and April of 2013.

A report of suspected acute Hepatitis A was recently reported.

A suspected foodborne outbreak related to two different birthday parties at an establishment was later determined to be an outbreak of Norovirus.

Fewer cases of Pertussis were reported since the last board meeting. There were a total of nine cases reported in September and October with no hospitalizations.

10. ALL OTHER BUSINESS AUTHORIZED BY LAW

Audrey said that she would work with Judy and Dr. Tibbetts to draft the letter to the PSC, etc. regarding the low-frequency noise study. Don stated that it is important to point out to the state that they have a burden to bear regarding the health of its citizens. Dr. Tibbetts said that he has the materials that need to be included with the letter.

11. ADJOURNMENT / NEXT MEETING JANUARY 8, 2012

MOTION: To adjourn at 7:05 PM Tibbetts / Murray

MOTION CARRIED